

105TH CONGRESS
1ST SESSION

H. R. 2657

To amend the Internal Revenue Code of 1986 to prohibit the summons and examination of source codes for third-party computer programs and the disclosure of executable computer software obtained by the Internal Revenue Service.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 1997

Mr. SAM JOHNSON of Texas (for himself, Mr. HERGER, Mr. CHRISTENSEN, Mr. HOUGHTON, Mr. RAMSTAD, Ms. DUNN of Washington, Mr. ENGLISH of Pennsylvania, Mr. WELLER, and Mr. HAYWORTH) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to prohibit the summons and examination of source codes for third-party computer programs and the disclosure of executable computer software obtained by the Internal Revenue Service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Software Trade Se-
5 crets Protection Act of 1997”.

1 **SEC. 2. LIMITATION ON AUTHORITY TO REQUIRE DISCLO-**
2 **SURE OF COMPUTER SOURCE CODES.**

3 (a) IN GENERAL.—Section 7602 of the Internal Rev-
4 enue Code of 1986 (relating to examination of books and
5 witnesses) is amended by adding at the end the following
6 new subsection:

7 “(d) LIMITATION ON AUTHORITY TO REQUIRE DIS-
8 CLOSURE OF COMPUTER SOURCE CODES.—

9 “(1) IN GENERAL.—Nothing in this section or
10 in any other provision of this title shall be construed
11 to require the submission of, or to permit the exam-
12 ination of—

13 “(A) the computer source code for any
14 computer software program for accounting, tax
15 return preparation or compliance, or tax plan-
16 ning, or

17 “(B) design and development materials re-
18 lated to such a software program (including
19 program notes and memoranda).

20 “(2) EXCEPTIONS.—Paragraph (1) shall not
21 apply to—

22 “(A) any inquiry into any offense con-
23 nected with the administration or enforcement
24 of the internal revenue laws, or

25 “(B) any such program and materials—

1 “(i) owned by the taxpayer or a relat-
 2 ed person, and

3 “(ii) used exclusively by the taxpayer
 4 and not for commercial distribution.”

5 (b) PROTECTION OF TRADE SECRETS AND OTHER
 6 CONFIDENTIAL INFORMATION.—Subsection (b) of section
 7 7604 of such Code is amended by adding at the end the
 8 following new sentence: “Such order may make any provi-
 9 sion which is necessary to prevent the disclosure of trade
 10 secrets or other confidential information, including a pro-
 11 vision that any document or information be placed under
 12 seal to be opened only as directed by the court.”

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect on the date of the enactment
 15 of this Act.

16 **SEC. 3. PROTECTION FROM DISCLOSURE OF EXECUTABLE**
 17 **COMPUTER SOFTWARE.**

18 (a) IN GENERAL.—Section 6103 of the Internal Rev-
 19 enue Code of 1986 (relating to confidentiality and disclo-
 20 sure of returns and return information) is amended by re-
 21 designating subsection (q) as subsection (r) and by insert-
 22 ing after subsection (p) the following new subsection:

23 “(q) PROTECTION OF EXECUTABLE COMPUTER
 24 SOFTWARE.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this section, in the case of executable
3 computer software which is treated as a return or
4 return information under this section with respect to
5 any taxpayer—

6 “(A) the software may be used only in con-
7 nection with the examination of such taxpayer’s
8 return,

9 “(B) the software may be disclosed only to
10 persons conducting such examination whose du-
11 ties or responsibilities require access to the soft-
12 ware,

13 “(C) the software shall be maintained in a
14 secure area or place,

15 “(D) the software may not be copied ex-
16 cept as necessary to perform such examination,

17 “(E) at the end of the examination (and
18 any judicial review related thereto), the soft-
19 ware and all copies thereof shall be returned to
20 the person from whom they were obtained and
21 any copies thereof made under subparagraph
22 (D) on the hard drive of a machine or other
23 mass storage device shall be permanently de-
24 leted, and

1 “(F) the software may not be decompiled,
2 disassembled, or reverse engineered.

3 “(2) EXECUTABLE COMPUTER SOFTWARE.—

4 For purposes of paragraph (1), the term ‘executable
5 computer software’ means computer software which
6 is readable only by a computer, including the object
7 code.”

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall take effect on the date of the enact-
10 ment of this Act.

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